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**DIRECTOR'S OFFICE
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**UNITED STATES PATENT &
TRADEMARK OFFICE**

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL
PROPERTY AND DIRECTOR OF THE UNITED STATES
PATENT AND TRADEMARK OFFICE
Washington, D.C. 20231

Vincent M. DeLuca
Rothwell, Figg, Ernst & Manbeck P.C.
1425 K Street, N.W.
Suite 800
Washington, DC 20005

Paper No. 24

In re Application of	:	
Robert A. Ferstenberg et al.	:	DECISION ON PETITION UNDER
Application No. 09/209,815	:	37 C.F.R. 1.181(a)(3)
Filed: December 11, 1998	:	TO WITHDRAW FINALITY
For: COMPUTER METHOD AND	:	
SYSTEM FOR INTERMEDIATE	:	
EXCHANGE OF COMMODITIES	:	

This is in response to applicant's Petition filed on July 31, 2002, requesting withdrawal of the finality of the Office action mailed May 3, 2002 as being premature.

The petition is **GRANTED**.

Petitioner alleges that the final rejection dated May 3, 2002 was premature since this Office action contained a new grounds of rejection not necessitated by either applicant's amendment or by new information submitted in an information disclosure statement.

MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 C.F.R. 1.97 (c) with the fee set forth in 37 C.F.R. 1.17(p).

A review of the record indicates that in the final rejection dated May 3, 2002, claims 139 and 147 were rejected under the second and fourth paragraphs of 35 USC 112 and under 35 USC 101 which rejections were not in response to an amendment or new prior art submitted by applicant.

Accordingly, the finality of the May 3, 2002 Office action, but not the action itself, is hereby vacated. The Office action dated May 3, 2002 is now considered to be non-final with the shortened statutory period of THREE (3) MONTHS set in the Office action.

On June 14, 2002 applicant submitted an amendment and response to the May 3, 2002 rejection. This response will be entered and treated as a response to the non-final rejection mailed May 3, 2002.

This application will be forwarded to the examiner for consideration of the amendment and response.

Summary: *Petition Granted*



John J. Love, Director
Patent Technology Center 3600
(703) 308-1020
Facsimile No.: (703) 306-4597
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